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7590

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EXAMINER

TRAORE, FATOUMATA

ART UNIT

PAPER NUMBER

2436

MAIL DATE

DELIVERY MODE

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PAPER

**Please find below and/or attached an Office communication concerning this application or proceeding.**

The time period for reply, if any, is set in the attached communication.



### **DETAILED ACTION**

1. This is in response to the amendment filed September 9, 2008. Claims 1-23 have been cancelled. Claims 24-48 have been added. Claims 24-48 are pending and have been considered below.

### ***Election/Restrictions***

2. Restriction to one of the following inventions is required under 35 U.S.C. 121:

- I. Claims 24-39 and 44-48, drawn to A transmission system and method comprising a first transmission request to receive an application descriptive file from an information provider server in the transmission system based on a storage location of the application descriptive file in the transmission system. The received application descriptive file includes a storage location for application software in the transmission system and a storage location of a security descriptive file in the transmission system, which are used to carry out a second transmission request and a third transmission request, classified in class 713, subclass 165.
- II. Claims 37-43, drawn to a system and a terminal unit comprising a security descriptive file that includes "authorization information for an application software to execute on a terminal unit, an expiration date associated with the authorization information, and validity information associated with the security descriptive file, classified in class 726, subclass 26.

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3. .Inventions I and II are related as combination and subcombination. Inventions in this relationship are distinct if it can be shown that (1) the combination as claimed does not require the particulars of the subcombination as claimed for patentability, and (2) that the subcombination has utility by itself or in other combinations (MPEP § 806.05(c)). In the instant case, the combination as claimed does not require the particulars of the subcombination as claimed because Invention I is drawn to a method and system describing a sequence of transmission requests between the mobile terminal and devices accessible by the mobile terminal via a network connection. Invention II is directed a system and a terminal unit comprising a security descriptive file that includes an authorization information for an application software to execute on a terminal unit, an expiration date associated with the authorization information, and validity information associated with the security descriptive file. Therefore, invention I and II are distinct. The subcombination has separate utility such as The validity information of the security descriptive file of invention II can be generated using invention I, but it is not necessary to do.

The examiner has required restriction between combination and subcombination inventions. Where applicant elects a subcombination, and claims thereto are subsequently found allowable, any claim(s) depending from or otherwise requiring all the limitations of the allowable subcombination will be examined for patentability in accordance with 37 CFR 1.104. See MPEP § 821.04(a). Applicant is advised that if any claim presented in a continuation or divisional application is anticipated by, or includes all the limitations of, a claim that is allowable in the present application, such

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claim may be subject to provisional statutory and/or nonstatutory double patenting rejections over the claims of the instant application.

1. Inventions II and I are unrelated. Inventions are unrelated if it can be shown that they are not disclosed as capable of use together and they have different designs, modes of operation, and effects (MPEP § 802.01 and § 806.06). In the instant case, the different inventions Invention I is drawn toward a method and system describing a sequence of transmission requests between the mobile terminal and devices accessible by the mobile terminal via a network connection., Invention II is drawn to normalizing biometric values and Invention II is drawn to a system and a terminal unit comprising a security descriptive file that includes "authorization information for an application software to execute on a terminal unit, an expiration date associated with the authorization information, and validity information associated with the security descriptive files.

2. Restriction for examination purposes as indicated is proper because all these inventions listed in this action are independent or distinct for the reasons given above and there would be a serious search and examination burden if restriction were not required because one or more of the following reasons apply:

- (a) the inventions have acquired a separate status in the art in view of their different classification;
- (b) the inventions have acquired a separate status in the art due to their recognized divergent subject matter;

- (c) the inventions require a different field of search (for example, searching different classes/subclasses or electronic resources, or employing different search queries);
- (d) the prior art applicable to one invention would not likely be applicable to another invention;
- (e) the inventions are likely to raise different non-prior art issues under 35 U.S.C. 101 and/or 35 U.S.C. 112, first paragraph.

**Applicant is advised that the reply to this requirement to be complete must include (i) an election of a invention to be examined even though the requirement may be traversed (37 CFR 1.143) and (ii) identification of the claims encompassing the elected invention.**

The election of an invention may be made with or without traverse. To reserve a right to petition, the election must be made with traverse. If the reply does not distinctly and specifically point out supposed errors in the restriction requirement, the election shall be treated as an election without traverse. Traversal must be presented at the time of election in order to be considered timely. Failure to timely traverse the requirement will result in the loss of right to petition under 37 CFR 1.144. If claims are added after the election, applicant must indicate which of these claims are readable on the elected invention.

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Should applicant traverse on the ground that the inventions are not patentably distinct, applicant should submit evidence or identify such evidence now of record showing the inventions to be obvious variants or clearly admit on the record that this is the case. In either instance, if the examiner finds one of the inventions unpatentable over the prior art, the evidence or admission may be used in a rejection under 35 U.S.C. 103(a) of the other invention.

### **Conclusion**

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Fatoumata Traore whose telephone number is (571) 270-1685. The examiner can normally be reached Monday through Thursday from 7:00 a.m. to 4:00 p.m. and every other Friday from 7:30 a.m. to 3:30 p.m.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Nassar G. Moazzami, can be reached on (571) 272 4195. The fax phone number for Formal or Official faxes to Technology Center 2100 is (571) 273-8300. Draft or Informal faxes, which will not be entered in the application, may be submitted directly to the examiner at (571) 270-2685.

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Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the Group Receptionist whose telephone number is (571) 272-2100.

FT

Monday, December 08, 2008

/Carl Colin/

Primary Examiner, Art Unit 2436